



February 27, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to your August 4, 2022, complaint filed with the Department of Labor (Department), alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the American Federation of Government Employees (AFGE) Local 2145 (Union or Local 2145) delegate election, completed on May 10, 2022.

The Department investigated the complaint. As a result of the investigation, the Department has concluded, with respect to the allegations, that there was no violation of the LMRDA that may have affected the outcome of the election.

You allege that the Local 2145 delegates selected to vote at the AFGE Convention were improperly elected and seated at the Convention. You allege that the vote on the motion not to send delegates to the Convention was cast multiple times and that the first vote should have been accepted, which would have resulted in no Local 2145 delegates attending the Convention.

Section 401(e) of the LMRDA requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. 29 U.S.C. § 481(e). The Department's interpretive regulation at 29 C.F.R. § 452.128 provides as follows:

A local union may elect fewer delegates than it is permitted under the union constitution as long as the local is allowed to determine for itself whether or not it will send its full quota of delegates to the union convention. The delegates present from a local may cast the entire vote allotted to that local if this is permitted by the constitution and bylaws.

Appendix A, Part I, Section 6(c) of the AFGE Constitution states, "[i]n the election for delegates, members will be afforded the opportunity to determine the number of delegates, up to the full entitlement as provided by the national or council constitution involved."

The Department's investigation revealed that a video of the Local 2145 May 10, 2022, meeting and votes on the motion was recorded and posted online. A review of the video revealed that Local 2145 voted three times on whether to send delegates to the Convention. On the first vote, the majority seemed in favor of not sending delegates to the Convention; however, OLMS' review could not confirm these results and several parties claimed the results were inaccurate. A second vote was therefore called for. The second vote was not completed. A third vote was held, which resulted in 17 votes for the motion and 18 votes against the motion, finding that Local 2145 delegates would attend the Convention. The results of the third vote are consistent with the meeting minutes. There was no violation of the LMRDA.

You also allege that there was no guarantee that only members received ballots, or that members received only one ballot when electing delegates to send to the Convention. Consistent with section 401(f) of the LMRDA, the Department's interpretive regulation at 29 C.F.R. § 452.119 provides:

National or international labor organizations subject to the Act have the option of electing officers either directly by secret ballot among the members in good standing or at a convention of delegates or other representatives who have been elected by secret ballot among the members. Intermediate labor organizations subject to the Act have the option of electing officers either directly by secret ballot among the members in good standing or by labor organization officers or delegates elected by secret ballot vote of the members they represent. Local unions, in contrast, do not have the option of conducting their periodic elections of officers indirectly through representatives.

Appendix A, Part I, Section 6(a) of the AFGE Constitution states, "Delegates to district caucuses, council meetings, or the AFGE National Convention must be elected by secret ballot of the members on whose behalf they will serve as delegates. Delegates, alternate delegates, and proxy delegates must be elected by name and by plurality vote."

The investigation revealed that Local 2145 members voted for delegates on index cards. After voting, the members lined up to turn in their index cards. Before placing their index card in the ballot box, each member was given a number to write on the back of the index card. The number was assigned chronologically by the election committee to ensure no one voted twice. Twenty-six people voted in the main delegate election. Some numbers written on the cards were duplicate numbers. It appears that members may have been confused about which number to write on their card. Despite this error, there is no evidence that a member voted more than once, and the number of index cards did not exceed the number of members at the meeting. Due to a tie for the last delegate position, a run-off election was conducted. Fifteen members voted in the run-off election, and the index cards were numbered 1 to 15 with no duplicate numbers.

Even if the investigation revealed that non-members may have voted in the selection of delegates, this violation could not have impacted the outcome of the election. For a violation to be actionable there must be evidence that the violation may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). The investigation revealed that Local 2145 was entitled to 2,512 votes and 10 delegates at the Convention. A review of True Ballot voting records revealed that Local 2145 sent 10 delegates to the AFGE Convention and those delegates cast 2,512 votes in total. The smallest vote margin, in the 42nd AFGE National Election was 11,607 votes. Therefore, even if violations did occur at the time Local 2145 was deciding whether or not to send delegates to the Convention, any such violations could not have affected the outcome of any race. There was no actionable violation of the LMRDA.

For the reasons set forth above, the Department concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file regarding this matter.

Sincerely,



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Chief, Division of Enforcement

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